

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DONALD ROOTS,

Petitioner,

v.

NEWSOME, et al.,

Respondents.

No. 2:22-cv-0180-EFB P

ORDER

Mr. Roots is a state prisoner proceeding without counsel. This action was opened when he filed an unsigned document titled “Mandate Vacating the Sentence.” ECF No. 1. He has not properly commenced a civil action. To commence a civil action, a party must file a complaint or a petition. Fed. R. Civ. P. 3; Rule 3, Rules Governing § 2254 Cases; *Woodford v. Garceau*, 538 U.S. 202, 203 (2003). Mr. Roots’s initial filing constitutes neither.

If Mr. Roots wishes to challenge a judgment of conviction entered against him in state court, he must file an application for a writ of habeas corpus using this court’s form petition. In addition, Mr. Roots must either file an in forma pauperis affidavit or pay the required filing fee (\$5.00). *See* 28 U.S.C. §§ 1914(a); 1915(a). Until Mr. Roots submits a signed petition and either pays the filing fee or meets the requirements of 28 U.S.C. § 1915(a), there is simply no case before the court.

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Accordingly, it is hereby ORDERED that:

1. The Clerk of the Court shall send to Mr. Roots the court's forms for application for writ of habeas corpus and application for leave to proceed in forma pauperis;
2. Within 30 days of the date of this order, Mr. Roots may either pay the \$5 filing fee or submit a complete application for leave to proceed in forma pauperis using the form provided;
3. Within 30 days of the date of this order, Mr. Roots may file a petition for writ of habeas corpus using the form provided;
4. Mr. Roots's unsigned initial filing (ECF No. 1) is disregarded; and
5. Failure to comply with this order may result in this case being closed.

Dated: February 2, 2022.



EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE